

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 20-4546**

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SCOTT D. TINGLER,

Defendant - Appellant.

---

Appeal from the United States District Court for the Northern District of West Virginia, at  
Clarksburg. Irene M. Keeley, Senior District Judge. (1:19-cr-00027-IMK-MJA-1)

---

Submitted: July 20, 2021

Decided: July 22, 2021

---

Before WILKINSON, AGEE, and DIAZ, Circuit Judges.

---

Affirmed by unpublished per curiam opinion.

---

Barry P. Beck, POWER, BECK & MATZUREFF, Martinsburg, West Virginia, for  
Appellant. Sarah Wagner, OFFICE OF THE UNITED STATES ATTORNEY,  
Clarksburg, West Virginia, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Scott D. Tingler pled guilty to conspiracy to distribute controlled substances, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), 846, and filing a fraudulent tax return, in violation of 26 U.S.C. § 7206(1). The district court sentenced Tingler to 121 months' imprisonment and Tingler now appeals. Tingler's counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious grounds for appeal, but questioning whether the sentence is reasonable. We affirm.

We review a sentence for reasonableness, applying “a deferential abuse-of-discretion standard.” *Gall v. United States*, 552 U.S. 38, 41 (2007). This review entails consideration of both the procedural and substantive reasonableness of the sentence. *Id.* at 51. In determining procedural reasonableness, we consider whether the district court properly calculated the defendant's Sentencing Guidelines range, gave the parties an opportunity to argue for an appropriate sentence, considered the 18 U.S.C. § 3553(a) factors, and sufficiently explained the selected sentence. *Id.* at 49-51. If there are no procedural errors, we then consider the substantive reasonableness of the sentence, evaluating “the totality of the circumstances.” *Id.* at 51. A sentence is presumptively substantively reasonable if it “is within or below a properly calculated Guidelines range,” and this “presumption can only be rebutted by showing that the sentence is unreasonable when measured against the 18 U.S.C. § 3553(a) factors.” *United States v. Louthian*, 756 F.3d 295, 306 (4th Cir. 2014).

We have reviewed the record and conclude that the district court did not commit procedural error, and Tingler fails to rebut the presumption that his sentence is

substantively reasonable. The district court properly calculated his Guidelines range and reasonably determined that a sentence at the low end of that range was appropriate in this case.

In accordance with *Anders*, we have reviewed the entire record in this case and have found no meritorious grounds for appeal. We therefore affirm the district court's judgment. This court requires that counsel inform Tingler, in writing, of the right to petition the Supreme Court of the United States for further review. If Tingler requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Tingler.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*